

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

STATE OF ALABAMA, et al., }
Plaintiffs, }
v. } Case No.: 2:18-cv-772-RDP
UNITED STATES DEPARTMENT OF }
COMMERCE, et al., }
Defendants. }

ORDER

This matter is before the court on the Motions to Intervene filed by the States of New York, California, Colorado, Connecticut, the District of Columbia, Illinois, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Virginia, and Washington; the cities and counties of Cameron County, Texas; Central Falls, Rhode Island; Chicago, Illinois; Hidalgo County, Texas; Monterey County, California; New York, New York; Philadelphia, Pennsylvania; Providence, Rhode Island; and Seattle, Washington; and the United States Conference of Mayors (Doc. # 96) and Arlington County, Virginia and the City of Atlanta, Georgia (Doc. # 98).

The parties **SHALL** brief the issues raised by the Motion in accordance with “Exhibit B,” attached hereto and made a part of this order as if fully set out herein. Plaintiffs’ responsive submission **SHALL** be filed no later than **seven (7) calendar days** after the entry of this order. The Proposed Defendant-Intervenors’ reply submission(s) **SHALL** be filed no later than **three (3) calendar days** after the date on which the responsive submission(s) is filed.

Any non-summary judgment motions filed after the entry of this order **SHALL** comply with the provisions of Exhibit B without further order from the court

DONE and **ORDERED** this August 13, 2019.



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE

EXHIBIT B¹

Non-Summary Judgment Motion Scheduling Order²

The court recognizes that a number of motions filed with the court do not require additional briefing before the court takes them under consideration. However, to the extent the parties determine that briefing is necessary on a non-summary judgment motion, or to the extent the court orders briefing on a non-summary judgment motion, the following schedule and requirements for the submission of briefs are established. Except for good cause shown, briefs that do not conform to the requirements of this Order will be stricken.

A. Schedule

- 1.** Upon the filing of any non-summary judgment motion, the movant shall either incorporate into the motion the arguments and/or authorities upon which it relies or *simultaneously* file a separate brief with its initial motion.
- 2.** The opponent's responsive brief shall be filed no later than **ten (10) calendar days** thereafter. (NOTE: Days should be calculated without taking into account Fed. R. Civ. P. 6. However, if the due date falls on a weekend or court holiday, the due date shall be the next business day).
- 3.** The movant's reply brief shall be filed no later than **five (5) calendar days** after the

¹ The designation Exhibit B carries with it a historical importance in this court. (NOTE: This is not an Exhibit A attached to the Initial Order.).

² NOTE: The following instructions do not apply to summary judgment motions unless an order of the court specifically provides otherwise. Any motion(s) for summary judgment filed in this action shall be governed by the provisions of Appendix II to the Uniform Initial Order, which can be viewed on the court's website at www.alnd.uscourts.gov/Proctor/ProctorsPage.htm.

date on which the opponent's responsive brief is filed. (NOTE: Days should be calculated without taking into account Fed.R.Civ.P. 6. However, if the due date falls on a weekend or court holiday, the due date shall be the next business day).

The parties shall transmit their briefs in such a manner that their opponents will not suffer any undue delay in the receipt of their service copies of any briefs. It is the intent of the court that each party shall be afforded a full and fair opportunity to be heard and counsel are expected to take care that service of copies is not unreasonably delayed.³ Upon conclusion of the submission schedule, the court may take the motion under submission without further notice to the parties and materials submitted after the close of the submission schedule will not be considered in ruling on the motion absent obtaining leave of court.

B. Briefs

The parties shall *electronically file* their briefs through the court's CM/ECF system and shall submit an exact courtesy copy of the brief to the Clerk's office for delivery to the court's chambers.⁴ The parties are then required to email their briefs, in Word or WordPerfect format, to the chamber's email address at *proctor_chambers@alnd.uscourts.gov*. The materials submitted to the Clerk's office for delivery to the court's chambers, as well as those sent via email, shall contain the exact same materials and only the materials which are electronically filed through the court's CM/ECF system. There must be no differences between the electronically "filed" briefs and the "copy" provided to the court, except that the courtesy copy submitted for chambers

³ The opposing party should typically receive a copy of all materials on the same date that the submission is made to the court, but in no event more than one (1) business day later.

⁴ Deliveries are no longer accepted in the court's chambers unless prior arrangements have been made.

must be three-hole punched. In the event of a later appeal, the court will not look favorably upon motions to supplement the record on appeal to add materials on the ground that such materials were submitted to the court but were not electronically “filed” with the Clerk.

Briefs should be entitled “[Movant’s or Opponent’s] [Initial, Responsive or Reply] Submission in Response to Exhibit B of the Court’s Order” to ensure that the brief will be filed by the Clerk in the official court record. The text of initial and responsive briefs shall not exceed twenty-five (25) pages and reply briefs are limited to ten (10) pages.⁵ Briefs exceeding ten (10) pages in length shall have incorporated therein a table of contents that accurately reflects the organization of the brief itself. Tables of Contents shall not be included for purposes of computing the number of pages in a brief.

C. Required Certification

Counsel for either party (or any individual under the direction or control of a party), signing any document, including an affidavit, in connection, either directly or indirectly, with a motion, response to such a motion, or a reply to any such response, shall certify by his or her personal signature and as an officer of the court that he or she has affirmatively and diligently sought to submit to the court only those documents, factual allegations, and arguments that are material to the issues to be resolved in the motion, that careful consideration has been given to the contents of all submissions to ensure that the submissions do not include vague language or an overly broad citation of evidence or misstatements of the law, and that all submissions are non-frivolous in nature.

⁵ Briefs must be typewritten and double spaced, using at least 12-point type. The court expects that counsel will respect the page limitation established by this order. Transparent attempts on the part of counsel to circumvent page limitations by manipulating type sizes, margins, line spacing, or other similar end runs will not be tolerated.

D. Oral Argument

Upon receipt of the motion, the court may schedule the motion for consideration at a separate hearing or motion docket. Oral argument is not required, but either party may submit a request for oral argument by noting the request on the style of the pleading itself or by serving a request on the court and opposing party. Separate requests for oral argument should not be filed. The court will permit oral argument if the court deems it necessary, helpful, or appropriate.